

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Review Policies
Concerning Intrastate Carrier Access Charges.

Rulemaking 03-08-018

**ADMINISTRATIVE LAW JUDGE'S RULING REGARDING
NOTICES OF INTENT TO CLAIM COMPENSATION**

1. Summary

This ruling responds to the notices of intent to claim compensation (NOIs) filed in this docket by The Utility Reform Network (TURN) pursuant to Pub. Util. Code, Article 5, § 1804. Like all intervenors, TURN must demonstrate that its participation resulted in a substantial contribution to the proceeding by the unique presentation of facts or arguments that were relied upon by the Administrative Law Judge (ALJ) or California Public Utilities Commission (Commission) in resolving this proceeding.

2. Statutory Requirements Relevant to TURN's NOI

Under § 1804(a)(1), “[a] customer who intends to seek an award under this article shall, within 30 days after the prehearing conference is held, file and serve on all parties to the proceeding a notice of intent to claim compensation.” It also permits the Commission to accept a late filing where a party could not have reasonably identified issues within 30 days of the prehearing conference. TURN filed its NOI within 30 days of the prehearing conference and it is therefore timely.

Section 1804(a)(2) sets forth those items that must be addressed in an NOI. Pursuant to Decision (D.) 98-04-059, this ruling must determine whether the intervenor is a customer, as defined in § 1802(b), and identify whether the intervenor is a participant representing consumers, or a representative authorized by a customer, or a representative of a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential ratepayers. If the customer category identified is “a representative authorized by a customer,” the NOI should identify “the residential customer or customers that authorized him to represent that customer.” That identification is needed because this category of customer “connotes a more formal arrangement where a customer, or a group of customers, selects a presumably more skilled person to represent the customers’ views in a proceeding.” (D.98-04-059, pp. 28-30.) Participation in Commission proceedings by parties representing the full range of affected interests is important. Such participation assists the Commission in ensuring that the record is fully developed and that each customer group receives adequate representation.

Once the applicable definition of customer is identified, the correct standard of “significant financial hardship” can be applied. Only those customers for whom participation or intervention would impose a significant financial hardship may receive intervenor compensation. Section 1804(a)(2)(B) allows the customer to include a showing of significant financial hardship in the NOI. Alternatively, the required showing may be made in the request for award of compensation. Section 1802(g) defines “significant financial hardship.”

“Significant financial hardship” means either that the customer cannot without undue hardship afford to pay the costs of effective participation, including advocate’s fees, expert witness fees, and other reasonable costs of

participation, or that, in the case of a group or organization, the economic interest of the individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding.

3. TURN's NOI

TURN meets the first definition of customer, as set forth in § 1802(b), because it is an organization whose official mission is to represent the interests of utility customers.

Section 1804(a)(2)(A)(i) requires NOIs to include a statement of the nature and extent of the customer's planned participation in the proceeding to the extent this can be predicted. TURN states it expects to be an active party in this all aspects of this proceeding, especially on issues relating to residential telephone rates. It intends to file briefs and comments and to participate in evidentiary hearings if they are held. It states it has already invested over 100 hours in this proceeding addressing the issue of "revenue neutrality."

Consistent with D.98-04-059, TURN states its constituent members would be underrepresented but for its participation. In that regard, it states its commitment to coordinating with Office of the Ratepayer Advocates and other parties to avoid duplication of effort.

Section 1804(a)(2)(A)(ii) requires that NOIs include an itemized estimate of the compensation the customer expects to receive. TURN estimates a total projected budget of \$100,000 for this case, based on proposed hourly rates for its attorneys. About half of this is expected to be incurred in Phase 1 and the other half in Phase 2 as the proceeding is currently structured.

TURN seeks a finding of significant financial hardship. It asks the Commission to apply the finding of significant financial hardship it received in a ruling issued on March 25, 2003 in Rulemaking 02-07-050.

IT IS RULED that The Utility Reform Network (TURN) is a customer as that term is defined in § 1802(b). TURN has met the eligibility requirements of § 1804(a) and would experience significant financial hardship if it were to participate in this proceeding without intervenor compensation.

Dated February 17, 2004, at San Francisco, California.

/s/ ANGELA K. MINKIN
for KIM MALCOLM

Kim Malcolm
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding Notices of Intent to Claim Compensation on all parties of record in this proceeding or their attorneys of record.

Dated February 17, 2004, at San Francisco, California.

/s/ ELIZABETH LEWIS
Elizabeth Lewis

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at

(415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.